

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

HENRY NGO WU, ) C 07-1710 MMC(PR)  
Petitioner,  
vs.  
BEN CURRY, )  
Respondent. )  
ORDER OF DISMISSAL;  
DENYING APPLICATION FOR  
LEAVE TO PROCEED IN  
FORMA PAUPERIS  
(Docket No. 4)

On March 26, 2007, petitioner, a California prisoner proceeding pro se, filed the above-titled petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He challenges a 2004 decision by the California Board of Prison Hearings (“BPH”) to deny him parole.

On April 30, 2007, plaintiff filed a letter indicating that the instant petition is an identical copy of a petition filed by petitioner in a previous habeas action, Wu v. Curry, No. C 07-1438 MMC (PR), which action is currently pending. A complaint that merely repeats pending or previously litigated claims is frivolous and may be dismissed sua sponte. See Cato v. United States, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995); Bailey v. Johnson, 846 F.2d 1019, 1021 (5th Cir. 1988); see also 28 U.S.C. § 2244(b)(3)(A) (providing that second or successive petition may not be filed in district court unless petitioner first obtains from United States Court of Appeals order authorizing such petition). As the instant petition is identical to petitioner's earlier-filed petition, the instant action is hereby DISMISSED as

1 duplicative.<sup>1</sup>

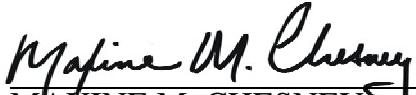
2 In light of this dismissal, the application to proceed in forma pauperis is DENIED, and  
3 no fee is due.

4 This order terminates Docket No. 4.

5 The Clerk shall close the file.

6 IT IS SO ORDERED.

7 DATED: June 11, 2007

  
MAXINE M. CHESNEY  
United States District Judge

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28       <sup>1</sup>In his April 30, 2007 letter, petitioner requested that the Court either dismiss one of  
the two cases or, alternatively, that both cases be “consolidated.” The Court sees no purpose  
in consolidating two identical cases. Dismissal of the instant action will not adversely affect  
the Court’s consideration of the petition in the earlier-filed case.